

**IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

UNITED STATES OF AMERICA)	
)	
v.)	Case No.: 2:07-cr-280-MHT
)	
TIMOTHY G. JONES)	

UNOPPOSED MOTION TO CONTINUE TRIAL

COMES NOW the Defendant, **TIMOTHY G. JONES**, by undersigned counsel, Michael J. Petersen, and pursuant to 18 U.S.C. § 3161(h), respectfully moves this Court to continue this matter from June 23, 2008 trial docket.

In support of this motion, the Defendant would show that such continuance will serve the ends of justice, and will permit the parties to conduct the negotiation of a pre-trial resolution of this case, based on the following circumstances:

1. The attorney for the Government in this case, Jerusha Adams, Esq., does not oppose this motion.
2. Mr. Jones was the subject of two separate indictments in this Court, Case No. 2:07-cr-00144-WKW and Case No. 2:07-cr-00280-MHT.
3. On February 1, 2008, Mr. Jones appeared before Magistrate Judge Capeland following a Change of Plea Hearing was adjudicated guilty as to Count 1 in Case No. 2:07-cr-00144-WKW pursuant to a plea agreement. (2:07-cr-144, Doc #23). Sentencing in Case No. 2:07-cr-00144-WKW was set for May 14, 2008. (2:07-cr-144, Doc #24).
4. On April 28, 2008, Mr. Jones appeared before Magistrate Judge Capel to respond to

a motion to Revoke Bond filed by his pre-trial services officer in both cases before this Court. (2:07-cr-144, Doc #24; 2:07-cr-280, Doc #23).

5. On April 28, 2008, Magistrate Judge Capel granted the motion to Revoke Bond, revoking Mr. Jones' pretrial release pending his sentencing in 2:07cr144-WKW and his trial in 2:07cr280-MHT. Mr. Jones was remanded to the custody of the United States Marshal Service pending further proceedings in both matters. During the course of the revocation hearing, Magistrate Judge Capel called Mr. Jones' competency into question in open court based upon Mr. Jones' behavior which led to the motion to Revoke Bond. Due to this fact, and because of undersigned counsel's recent personal observations of Mr. Jones, undersigned counsel questions Mr. Jones' mental health.

6. Since that date, undersigned counsel has been gathering records concerning Mr. Jones and arranging for a mental health evaluation by Clinical Psychologist Dr. Catherine Boyer.

7. Such investigation and evaluation cannot be completed by the June 11, 2008 date by which Notice of Intent to Change Plea must be filed in this matter pursuant to Rule 11(c)(1)(C), Federal Rules of Criminal Procedure. Until this evaluation is complete, undersigned counsel is unable to determine if it is relevant for issues of competence, trial (i.e trial strategy), negotiating a pre-trial resolution of this matter, or sentencing, and is unable to properly advise Mr. Jones. Therefore, it is in the interest of justice to continue this trial.

8. Requests for a continuance are addressed to the sound discretion of the trial court. *United States v. Darby*, 744 F.2d 1508, 1521 (11th Cir. 1984), *reh. denied* 749 F.2d 733, *cert. denied* 471 U.S. 1100 (1985). Additionally, pursuant to 18 U.S.C. §§ 3161(h)(1)(A), (h)(1)(I), (h)(4), (h)(8)(B)(I), (h)(8)(B)(ii), and (h)(8)(B)(iv), this Court has authority to continue this trial to allow

counsel time to conduct necessary psychiatric examinations and investigation and to complete the investigation necessary to facilitate a potential pre-trial resolution that will be reviewed by the court. Undersigned counsel believes that, in this case, the ends of justice will be served by allowing the defense adequate time to complete an evaluation of Mr. Jones and review this relevant information which has recently come to light and to interview all potential witnesses in order to adequately prepare a defense to the charges contained in the Indictment or to negotiate a pre-trial resolution of this matter.

WHEREFORE, based upon the foregoing, the Defendant, by and through undersigned counsel moves this Court for an Order continuing this matter to the next Northern Division trial term in order to properly pursue an investigation and potential pre-trial resolution of this matter.

Dated this 3rd day of June, 2008.

Respectfully submitted,

s/ Michael J. Petersen
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CERTIFICATE OF SERVICE

I hereby certify that on June 3, 2008, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following: Jerusha Adams, Esq., Assistant U.S. Attorney, 131 Clayton Street, Montgomery, AL 36101.

Respectfully submitted,

s/ Michael J. Petersen
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